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(Plesa)

S.B. No. 1705

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of virtual currency kiosks; providing an administrative penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle E, Title 3, Finance Code, is amended by adding Chapter 161 to read as follows:

CHAPTER 161. VIRTUAL CURRENCY KIOSKS

Sec. 161.001. DEFINITIONS. In this chapter:

(1) "Blockchain analytics" means the analysis of data from blockchains or public distributed ledgers, including associated transaction information.

(2) "Blockchain analytics software" means a software service that uses blockchain analytics data to provide risk-specific information, including information relating to virtual currency wallet addresses.

(3) "Commissioner" means the banking commissioner of Texas or a person designated by the banking commissioner and acting under the banking commissioner's direction and authority.

(4) "Department" means the Texas Department of Banking.

(5) "Transaction hash" means a unique identifier made up of a string of characters that act as a record of and provide proof that the transaction was verified and added to the blockchain.

1 (6) "Virtual currency" has the meaning assigned by
2 Section 12.001, Business & Commerce Code.

3 (7) "Virtual currency address" means an alphanumeric
4 identifier associated with a virtual currency wallet identifying
5 the location to which a virtual currency kiosk transaction can be
6 sent.

7 (8) "Virtual currency business activity" means
8 exchanging, transferring, or storing virtual currency.

9 (9) "Virtual currency kiosk" means an electronic
10 terminal operated by a virtual currency kiosk operator to enable
11 the operator to facilitate the exchange of virtual currency for
12 money, bank credit, or other virtual currency, including by:

13 (A) connecting directly to a separate virtual
14 currency exchanger that performs the actual virtual currency
15 transmission; or

16 (B) drawing on the virtual currency in the
17 possession of the electronic terminal's operator.

18 (10) "Virtual currency kiosk operator" means a person
19 that engages in virtual currency business activity through a
20 virtual currency kiosk located in this state or a person that owns,
21 operates, or manages a virtual currency kiosk located in this state
22 through which virtual currency business activity is offered.

23 (11) "Virtual currency kiosk transaction" means a
24 transaction conducted or performed, wholly or partly, by electronic
25 means on a virtual currency kiosk, including a transaction made at a
26 virtual currency kiosk to purchase virtual currency with fiat
27 currency or to sell virtual currency for fiat currency.

1 (12) "Virtual currency wallet" means a software
2 application or other mechanism providing a means to hold, store, or
3 transfer virtual currency.

4 Sec. 161.002. REGISTRATION REQUIRED. A virtual currency
5 kiosk operator may not locate, or allow a third party to locate, a
6 virtual currency kiosk in this state unless the virtual currency
7 kiosk operator:

8 (1) registers the kiosk with the department; and

9 (2) obtains the prior approval of the department for
10 the activation of the kiosk.

11 Sec. 161.003. REPORT REQUIRED. Not later than the 45th day
12 following the date of the end of each calendar quarter, a virtual
13 currency kiosk operator shall file with the department a report of
14 the location of each virtual currency kiosk of the operator in this
15 state. The report required under this section must include for each
16 virtual currency kiosk:

17 (1) company legal name;

18 (2) any fictitious or trade name;

19 (3) physical address;

20 (4) start date of operation of the virtual currency
21 kiosk at a location;

22 (5) end date of operation of the virtual currency
23 kiosk at a location, if applicable; and

24 (6) each virtual currency address associated with the
25 virtual currency kiosk.

26 Sec. 161.004. REQUESTS FOR CERTAIN INFORMATION. (a) Not
27 later than 72 hours after receiving a written request from a law

1 enforcement agency, a virtual currency kiosk operator shall provide
2 to the agency limited identifying information such as a virtual
3 currency wallet address or transaction hash.

4 (b) A release of information under Subsection (a) does not
5 require a subpoena or court order. A release of additional
6 identifying information requires a subpoena or court order.

7 Sec. 161.005. DISCLOSURES ON MATERIAL RISK. (a) A virtual
8 currency kiosk operator in this state shall disclose in a clear,
9 conspicuous, and easily readable manner all material risks
10 generally associated with virtual currency, including that:

11 (1) virtual currency is not legal tender and is not
12 backed or insured by the government;

13 (2) accounts and value balances of virtual currency
14 are not subject to Federal Deposit Insurance Corporation, National
15 Credit Union Administration, or Securities Investor Protection
16 Corporation protections;

17 (3) some virtual currency kiosk transactions are
18 deemed to be made when recorded on a public ledger that may not be
19 the date or time when the person initiates the transaction;

20 (4) virtual currency's value may be derived from the
21 continued willingness of market participants to exchange fiat
22 currency for virtual currency, which may result in the permanent
23 and total loss of a particular virtual currency's value if the
24 market for virtual currency disappears;

25 (5) a person who accepts a virtual currency as payment
26 is not required to accept the currency as payment and may decline to
27 accept the currency in a future transaction;

1 (6) the volatility and unpredictability of the price
2 of virtual currency relative to fiat currency may result in a
3 significant loss in value over a short period;

4 (7) the nature of virtual currency means that any
5 technological difficulties experienced by a virtual currency kiosk
6 operator may prevent access to or use of the operator's customer's
7 virtual currency; and

8 (8) any bond maintained by the virtual currency kiosk
9 operator for the benefit of customers may not cover all losses
10 incurred by customers.

11 (b) In addition to the disclosures required under
12 Subsection (a), a virtual currency kiosk operator shall provide a
13 written disclosure that:

14 (1) is written prominently and in bold type and must be
15 acknowledged by the customer;

16 (2) is provided separately from the disclosures
17 required under Subsection (a); and

18 (3) states: "WARNING: LOSSES DUE TO FRAUDULENT OR
19 ACCIDENTAL TRANSACTIONS ARE NOT RECOVERABLE AND TRANSACTIONS IN
20 VIRTUAL CURRENCY ARE IRREVERSIBLE. VIRTUAL CURRENCY TRANSACTIONS
21 MAY BE USED TO STEAL YOUR MONEY BY CRIMINALS IMPERSONATING THE
22 GOVERNMENT, ORGANIZATIONS, OR YOUR LOVED ONES. THEY CAN THREATEN
23 JAIL TIME, SAY YOUR IDENTITY HAS BEEN STOLEN, ALLEGE YOUR COMPUTER
24 HAS BEEN HACKED, INSIST YOU WITHDRAW MONEY FROM YOUR BANK ACCOUNT TO
25 PURCHASE VIRTUAL CURRENCY, OR A NUMBER OF OTHER SCAMS. IF YOU
26 BELIEVE YOU ARE BEING SCAMMED, CALL YOUR LOCAL LAW ENFORCEMENT."

27 (c) The disclosures required under Subsection (a) must be

1 displayed on the screen of the virtual currency kiosk with the
2 ability for a customer to acknowledge the receipt of the
3 disclosure.

4 Sec. 161.006. TRANSACTION-RELATED DISCLOSURES. (a) A
5 virtual currency kiosk operator shall disclose all relevant terms
6 generally associated with virtual currency and with the products,
7 services, and activities of the virtual currency kiosk operator,
8 including:

9 (1) the virtual currency kiosk operator's liability
10 for unauthorized virtual currency kiosk transactions;

11 (2) the customer's liability for unauthorized virtual
12 currency kiosk transactions;

13 (3) the customer's right to receive prior notice of a
14 change in the virtual currency kiosk operator's rules or policies;
15 and

16 (4) under what circumstances the virtual currency
17 kiosk operator, without a court or government order, is authorized
18 to disclose a customer's account information to third parties.

19 (b) Before a virtual currency kiosk transaction is entered
20 into for, on behalf of, or with a customer, a virtual currency kiosk
21 operator shall disclose the terms of the transaction in a clear,
22 conspicuous, and easily readable manner, including:

23 (1) the amount of the transaction denominated in:

24 (A) United States dollars; and

25 (B) the applicable virtual currency involved in
26 the transaction;

27 (2) any transaction fees, expenses, or charges,

including applicable exchange rates;

(3) the type and nature of the transaction;

(4) a warning that once completed, the transaction may not be reversed;

(5) the daily virtual currency kiosk transaction limit prescribed by Section 161.012; and

(6) any other disclosures that are customarily provided in connection with a virtual currency kiosk transaction.

Sec. 161.007. ACKNOWLEDGMENT OF DISCLOSURES. Before completing a transaction, a virtual currency kiosk operator shall ensure that each customer who engages in a virtual currency kiosk transaction using the operator's kiosk acknowledges receipt of all disclosures required under this chapter by confirmation of consent.

Sec. 161.008. RECEIPT REQUIRED. After a transaction is completed, the virtual currency kiosk operator shall provide the customer with a physical or digital receipt in the customer's preferred language that contains:

(1) the virtual currency kiosk operator's name and contact information, including a telephone number to answer questions and register complaints;

(2) the type, value, date, and precise time of the transaction, the transaction hash, and each applicable virtual currency address;

(3) the name and contact information of the sender;

(4) the name and contact information of the designated recipient;

(5) the fees charged;

1 (6) the exchange rate of the virtual currency to
2 United States dollars;

3 (7) a statement of the virtual currency kiosk
4 operator's liability for nondelivery or delayed delivery;

5 (8) a statement of the virtual currency kiosk
6 operator's refund policy; and

7 (9) any additional information the department may
8 require.

9 Sec. 161.009. PREVENTION OF FRAUDULENT ACTIVITY. A virtual
10 currency kiosk operator must use blockchain analytics software to
11 assist in the prevention of sending purchased virtual currency from
12 a virtual currency kiosk operator to a virtual currency wallet
13 known to be affiliated with fraudulent activity at the time of a
14 transaction. The department may request evidence from any virtual
15 currency kiosk operator of current use of blockchain analytics.

16 Sec. 161.010. FRAUD POLICY. A virtual currency kiosk
17 operator shall take reasonable steps to detect and prevent fraud,
18 including establishing and maintaining a written antifraud policy.
19 The policy required by this section shall, at a minimum, include:

20 (1) the identification and assessment of
21 fraud-related risk areas;

22 (2) procedures and controls to protect against
23 identified risks;

24 (3) allocation of responsibility for monitoring
25 risks; and

26 (4) procedures for the periodic evaluation and
27 revision of the antifraud procedures, controls, and monitoring

1 mechanisms.

2 Sec. 161.011. MEASURES TO ENSURE COMPLIANCE WITH LAWS. (a)
3 A virtual currency kiosk operator must designate and employ a
4 compliance officer who:

5 (1) is qualified to coordinate and monitor compliance
6 with the requirements of this chapter and as otherwise provided by
7 federal and state laws, rules, and regulations;

8 (2) is employed full time by the virtual currency
9 kiosk operator; and

10 (3) does not own more than 20 percent of the virtual
11 currency kiosk operator.

12 (b) Any compliance responsibilities required under federal
13 or state laws, rules, and regulations shall be completed by the
14 full-time employees of the virtual currency kiosk operator.

15 Sec. 161.012. DAILY TRANSACTION LIMIT. A virtual currency
16 kiosk operator may not enter into a transaction or series of
17 transactions with a customer for a total amount having a value of
18 greater than \$3,000 in a 24-hour period.

19 Sec. 161.013. IDENTIFICATION REQUIRED. Before completing a
20 transaction, a virtual currency kiosk operator shall ensure that
21 each customer who engages in a virtual currency kiosk transaction
22 using the operator's kiosk scans the customer's driver's license or
23 personal identification card.

24 Sec. 161.014. REGISTERED WALLET FOR RECIPIENTS REQUIRED.
25 (a) A virtual currency kiosk operator shall ensure that each
26 designated recipient of a virtual currency kiosk transaction using
27 the operator's kiosk has a virtual currency wallet registered with

1 the operator.

2 (b) A virtual currency kiosk operator shall require a person
3 registering a virtual currency wallet to provide:

4 (1) the person's driver's license or personal
5 identification card; and

6 (2) a photograph of the person's face.

7 Sec. 161.015. TEMPORARY HOLD ON TRANSACTIONS BY CERTAIN
8 CUSTOMERS. A virtual currency kiosk operator shall place a 72-hour
9 hold on any transaction initiated by a first-time customer who
10 engages in a virtual currency kiosk transaction using the
11 operator's kiosk.

12 Sec. 161.016. PERMITTED FEES. The aggregate fees and
13 charges, directly or indirectly, charged to a customer related to a
14 single transaction or series of related transactions involving
15 virtual currency effected through a virtual currency kiosk in this
16 state, including any difference between the price charged to a
17 customer to buy, sell, exchange, or convert virtual currency and
18 the prevailing market value of the virtual currency at the time of
19 the transaction may not exceed the greater of:

20 (1) \$5; or

21 (2) 12 percent of the United States dollar equivalent
22 of virtual currency involved in the transaction or transactions.

23 Sec. 161.017. CUSTOMER SERVICE. A virtual currency kiosk
24 operator that conducts business in this state must:

25 (1) provide live customer service between the hours of
26 8 a.m. and 10 p.m. Monday through Friday; and

27 (2) display on the virtual currency kiosk or screen of

1 the kiosk:

2 (A) the customer service toll-free telephone
3 number;

4 (B) the name, address, and telephone number of
5 the operator; and

6 (C) the days on, time on, and method by which a
7 customer can contact the operator for assistance.

8 Sec. 161.018. REVOCATION OF REGISTRATION. The department
9 shall revoke a registration of a virtual currency kiosk operator if
10 the virtual currency kiosk operator violates this chapter or a rule
11 adopted or order issued under this chapter.

12 Sec. 161.019. CEASE AND DESIST ORDERS. (a) If the
13 commissioner has reason to believe that a person has engaged or is
14 likely to engage in an activity in violation of this chapter, the
15 commissioner may order the person to cease and desist from the
16 violation. The commissioner's order is subject to Section 161.022,
17 unless the order is issued as an emergency order. The commissioner
18 may issue an emergency cease and desist order under Section 161.023
19 if the commissioner finds that the person's violation or likely
20 violation threatens immediate and irreparable harm to the public.

21 (b) A cease and desist order under this section may require
22 the person to cease and desist from the action or violation or to
23 take affirmative action to correct any condition resulting from or
24 contributing to the action or violation, including the payment of
25 restitution to each resident of this state damaged by the
26 violation.

27 Sec. 161.020. CONSENT ORDERS. (a) The commissioner may

1 enter into a consent order at any time with a person to resolve a
2 matter arising under this chapter or a rule adopted or order issued
3 under this chapter.

4 (b) A consent order must be signed by the person to whom the
5 order is issued or by the person's authorized representative and
6 must indicate agreement with the terms contained in the order.
7 However, a consent order may provide that the order does not
8 constitute an admission by a person that the person has violated
9 this chapter or a rule adopted or order issued under this chapter.

10 (c) A consent order is a final order and may not be appealed.

11 Sec. 161.021. ADMINISTRATIVE PENALTY. (a) After notice
12 and hearing, the commissioner may assess an administrative penalty
13 against a person who:

14 (1) has violated this chapter or a rule adopted or
15 order issued under this chapter and has failed to correct the
16 violation not later than the 30th day after the date the department
17 sends written notice of the violation to the person;

18 (2) has engaged in a pattern of violations; or

19 (3) has demonstrated wilful disregard for the
20 requirements of this chapter, the rules adopted under this chapter,
21 or an order issued under this chapter.

22 (b) A violation corrected after a person receives written
23 notice from the department of the violation may be considered for
24 purposes of determining whether a person has engaged in a pattern of
25 violations under Subsection (a)(2) or demonstrated wilful
26 disregard under Subsection (a)(3).

27 (c) The amount of the penalty may not exceed \$5,000 for each

1 violation or, in the case of a continuing violation, \$5,000 for each
2 day that the violation continues. Each transaction in violation of
3 this chapter and each day that a violation continues is a separate
4 violation.

5 (d) In determining the amount of the penalty, the
6 commissioner shall consider factors that include the seriousness of
7 the violation, the person's compliance history, and the person's
8 good faith in attempting to comply with this chapter, provided that
9 if the person is found to have demonstrated wilful disregard under
10 Subsection (a)(3), the trier of fact may recommend that the
11 commissioner impose the maximum administrative penalty permitted
12 under Subsection (c).

13 (e) A hearing to assess an administrative penalty is
14 considered a contested case hearing and is subject to Section
15 161.024.

16 (f) An order imposing an administrative penalty after
17 notice and hearing becomes effective and is final for purposes of
18 collection and appeal immediately on issuance.

19 (g) The commissioner may collect an administrative penalty
20 assessed under this section in the same manner that a money judgment
21 is enforced in court.

22 Sec. 161.022. NOTICE, HEARING, AND OTHER PROCEDURES FOR
23 NONEMERGENCY ORDERS. (a) This section applies to an order issued
24 by the commissioner under this chapter that is not an emergency
25 order.

26 (b) An order to which this section applies becomes effective
27 only after notice and an opportunity for hearing. The order must:

1 (1) state the grounds on which the order is based;

2 (2) to the extent applicable, state the action or
3 violation from which the person subject to the order must cease and
4 desist or the affirmative action the person must take to correct a
5 condition resulting from the violation or that is otherwise
6 appropriate;

7 (3) be delivered by personal delivery or sent by
8 certified mail, return receipt requested, to the person against
9 whom the order is directed at the person's last known address;

10 (4) state the effective date of the order, which may
11 not be before the 21st day after the date the order is delivered or
12 mailed; and

13 (5) include a notice that a person may file a written
14 request for a hearing on the order with the commissioner not later
15 than the 20th day after the date the order is delivered or mailed.

16 (c) Unless the commissioner receives a written request for a
17 hearing from the person against whom the order is directed not later
18 than the 20th day after the date the order is delivered or mailed,
19 the order takes effect as stated in the order and is final against
20 and non-appealable by that person from that date.

21 (d) A hearing on the order must be held not later than the
22 45th day after the date the commissioner receives the written
23 request for the hearing unless the administrative law judge extends
24 the period for good cause or the parties agree to a later hearing
25 date.

26 (e) An order that has been affirmed or modified after a
27 hearing becomes effective and is final for purposes of enforcement

1 and appeal immediately on issuance. The order may be appealed to
2 the district court of Travis County as provided by Section
3 161.024(b).

4 Sec. 161.023. REQUIREMENTS FOR NOTICE AND HEARING
5 PROCEDURES FOR EMERGENCY ORDERS. (a) This section applies to an
6 emergency order issued by the commissioner under this chapter.

7 (b) The commissioner may issue an emergency order, without
8 prior notice and an opportunity for hearing, if the commissioner
9 finds that:

10 (1) the action, violation, or condition that is the
11 basis for the order:

12 (A) has caused or is likely to cause the
13 insolvency of the virtual currency kiosk operator;

14 (B) has caused or is likely to cause the
15 substantial dissipation of the virtual currency kiosk operator's
16 assets or earnings;

17 (C) has seriously weakened or is likely to
18 seriously weaken the condition of the virtual currency kiosk
19 operator; or

20 (D) has seriously prejudiced or is likely to
21 seriously prejudice the interests of the virtual currency kiosk
22 operator, a customer of the virtual currency kiosk operator, or the
23 public; and

24 (2) immediate action is necessary to protect the
25 interests of the virtual currency kiosk operator, a customer of the
26 virtual currency kiosk operator, or the public.

27 (c) In connection with and as directed by an emergency

1 order, the commissioner may seize the records and assets of a
2 virtual currency kiosk operator or authorized delegate that relate
3 to the operator's virtual currency kiosk business.

4 (d) An emergency order must:

5 (1) state the grounds on which the order is based;

6 (2) advise the person against whom the order is
7 directed that the order takes effect immediately, and, to the
8 extent applicable, require the person to immediately cease and
9 desist from the conduct or violation that is the subject of the
10 order or to take the affirmative action stated in the order as
11 necessary to correct a condition resulting from the conduct or
12 violation or as otherwise appropriate;

13 (3) be delivered by personal delivery or sent by
14 certified mail, return receipt requested, to the person against
15 whom the order is directed at the person's last known address; and

16 (4) include a notice that a person may request a
17 hearing on the order by filing a written request for hearing with
18 the commissioner not later than the 15th day after the date the
19 order is delivered or mailed.

20 (e) An emergency order takes effect as soon as the person
21 against whom the order is directed has actual or constructive
22 knowledge of the issuance of the order.

23 (f) A virtual currency kiosk operator or authorized
24 delegate against whom an emergency order is directed must submit a
25 written certification to the commissioner, signed by the operator
26 or authorized delegate, and their principals and responsible
27 individuals, as applicable, and each person named in the order,

1 stating that each person has received a copy of and has read and
2 understands the order.

3 (g) Unless the commissioner receives a written request for a
4 hearing from a person against whom an emergency order is directed
5 not later than the 15th day after the date the order is delivered or
6 mailed, the order is final and non-appealable as to that person on
7 the 16th day after the date the order is delivered or mailed.

8 (h) A request for a hearing does not stay an emergency
9 order.

10 (i) A hearing on an emergency order takes precedence over
11 any other matter pending before the commissioner, and must be held
12 not later than the 10th day after the date the commissioner receives
13 the written request for hearing unless the administrative law judge
14 extends the period for good cause or the parties agree to a later
15 hearing date.

16 (j) An emergency order that has been affirmed or modified
17 after a hearing is final for purposes of enforcement and appeal.
18 The order may be appealed to the district court of Travis County as
19 provided in Section 161.024(b).

20 Sec. 161.024. ADMINISTRATIVE PROCEDURES. (a) All
21 administrative proceedings under this chapter must be conducted in
22 accordance with Chapter 2001, Government Code, and 7 T.A.C. Chapter
23 9.

24 (b) A person affected by a final order of the commissioner
25 issued under this chapter after a hearing may appeal the order by
26 filing a petition for judicial review in a district court of Travis
27 County. A petition for judicial review filed in the district court

1 under this subsection does not stay or vacate the appealed order
2 unless the court, after notice and hearing, specifically stays or
3 vacates the order.

4 Sec. 161.025. REFUND. (a) Not later than the 14th day
5 after the date that a customer enters into a virtual currency kiosk
6 transaction, if the customer believes the transaction was
7 fraudulently induced, the customer may file a complaint with:

8 (1) the virtual currency kiosk operator of the kiosk
9 used to complete the transaction; and

10 (2) an appropriate governmental or law enforcement
11 agency.

12 (b) A governmental or law enforcement agency that receives a
13 complaint under Subsection (a) shall:

14 (1) investigate the complaint; and

15 (2) provide a report to the customer and the virtual
16 currency kiosk operator stating whether or not the virtual currency
17 kiosk transaction was fraudulently induced.

18 (c) If the report provided under Subsection (b) states that
19 a virtual currency kiosk transaction was fraudulently induced, the
20 virtual currency kiosk operator shall issue to the customer a full
21 refund for any fees charged by the operator in connection with the
22 transaction.

23 Sec. 161.026. PHYSICAL WARNING SIGNS. A virtual currency
24 kiosk operator in this state shall post at the location of each
25 virtual currency kiosk of the operator a written warning in the form
26 of a sign within readable sight of the kiosk that provides notice to
27 customers that law enforcement does not accept virtual currency

1 payments.

2 Sec. 161.027. LAW ENFORCEMENT CONTACT. A virtual currency
3 kiosk operator in this state shall, at a minimum, have a dedicated
4 law enforcement contact and dedicated method of contact for the
5 applicable governmental or law enforcement agencies to contact the
6 operator. The contact method shall be displayed and made available
7 on the virtual currency kiosk operator's Internet website and shall
8 be updated as necessary.

9 Sec. 161.028. RULES. The Finance Commission of Texas shall
10 adopt rules necessary to implement, administer, and enforce this
11 chapter.

12 SECTION 2. As soon as practicable after the effective date
13 of this Act, the Finance Commission of Texas shall adopt rules
14 necessary to implement the changes in law made by this Act.

15 SECTION 3. This Act takes effect September 1, 2025.